

The Supreme Court of South Carolina

Dalvin Peterson, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2013-002096

ORDER

This matter is before the Court by way of a notice of appeal from an order of the circuit court denying and dismissing petitioner's application for post-conviction relief. Counsel for petitioner has submitted a motion to withdraw the notice of appeal, which states simply that pursuant to Rule 260(c), SCACR, counsel petitions this Court to withdraw the pending appeal in this case. Petitioner's signature appears on the document under the statement "I consent."

An appeal or other proceeding may be dismissed on motion of the appellant or petitioner upon such terms as may be fixed by this Court. Rule 260(c), SCACR. Whether to allow an appellant to withdraw his appeal is within this Court's discretion. *State v. Sutcliffe*, 35 S.C. L. (4 Strob.) 372 (1850).

Because the motion does not indicate petitioner is fully aware of the consequences of withdrawing the notice of appeal, we deny the motion to withdraw the appeal without prejudice to counsel's right to resubmit the motion with an affidavit from petitioner or an averment by counsel that petitioner is aware of the consequences of withdrawing the notice of appeal.



FOR THE COURT C.J.

Columbia, South Carolina

December 11, 2013

cc:

Tommy Arthur Thomas, Esquire
Karen Christine Ratigan, Esquire